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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/591,067	08/30/2006	John James Steinfort	MOR3-PT025	5963		
3624	7590	07/24/2008	EXAMINER			
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				WILLIAMS, MONICA L		
ART UNIT		PAPER NUMBER				
3644						
MAIL DATE		DELIVERY MODE				
07/24/2008		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/591,067	STEINFORT, JOHN JAMES
	<b>Examiner</b>	<b>Art Unit</b>
	MONICA L. WILLIAMS	3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 April 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 1, lines 12, “a cantilever action” is unclear how the support member provides a cantilever action. The instant drawings and specification do not show the support member cantilevering out from another structure.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rossa (4,432,306) in view of Steinfort (5,842,443).
5. In re claim 1 as best understood from applicant's disclosure, with reference to Figure 1, Rossa discloses an animal lifting and supporting device comprising a frame member (11) having a lifting section (23, 43a) and a pair of hip supports (27a, 27b) arranged to depend from the frame member so as to provide support via the hip bones

at the opposite sides of the animal, the hip supports being located intermediate the lifting section. Not disclosed is the rear support section.

6. However, with reference to Figure 3 and col.2 lines 29-39, Steinfort discloses a support member (20,16) depending from the frame member (42) at the rear support section (80,92), the support member being constructed so as to project between the hind legs of an animal to support the animal underneath its pelvis, wherein the arrangement is such that the animal is raised or supported by lifting or supporting the lifting section (56) to provide a cantilever action through the support member so that a substantial portion of the lift or support is taken under the pelvis of the animal. The advantage of this is to support the pelvis and chest of the animal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the lifting device of Rossa by using the support member of Steinfort in place of support (40) in order to support both the pelvis and the chest while also supporting the hips.

7. In re claim 2, with reference to Figures 1 and 3, Steinfort discloses the support member comprising a generally downwardly directed portion (66) and a leg portion (62) extending generally at an angle to the downwardly directed portion.

8. In re claim 3, with reference to Figure 3 and col.2 lines 29-39, Steinfort discloses that the leg portion is adjustable in height and position therefore it is inherent that the angle can be adjusted to be between 75 degrees and 135 degrees.

9. In re claim 4, with reference to Figure 3 and col.2 lines 29-39, Steinfort discloses the leg portion comprises a support seat (62) located to support a cow in a region between the cow's anus and udder.

10. In re claim 5, with reference to Figure 3 and col.2 lines 29-39, Steinfort discloses support member adjustor for adjusting the height of the support seat relative to the frame member.

11. In re claim 6, with reference to Figure 6, Rossa discloses a hinge (24) pivotally joining an upper portion of each hip support to the frame member.

12. In re claim 7, with reference to Figures 5 and 6, Rossa discloses a lower portion of each hip support comprises a generally trough shaped region, with the bottom of the trough shaped region being shaped so as to underlie and support the hip bone of a cow.

13. In re claim 8, with reference to Figure 6, Rossa discloses the trough shaped region comprises a U-section.

14. In re claim 9, with reference to Figure 6, Rossa discloses the hip supports are held splayed apart on opposite sides of the support frame by a hip adjustment member (28).

15. In re claim 10, with reference to Figure 6 and col.3 lines 45-57, Rossa discloses the hip adjustment member (28) comprises a rod provided with screw threads at opposed ends of the rod adapted to screw into threaded sockets attached to each of the hip supports whereby the splay at the hip supports may be adjusted by rotating the rod.

16. In re claim 11, with reference to Figure 6 and col.3 lines 45-57, Rossa discloses the rod (28) is held in a tubular member (30) extending transverse to the frame member and the tubular member is pivotally attached to the frame member.

17. In re claim 12, with reference to Figure 6, Rossa discloses a loop member (24) secured to the lifting section.

***Response to Arguments***

18. Applicant's arguments filed 04/16/2008 have been fully considered but they are not persuasive.

19. In response to applicant's argument that the Examiner's office action states that Rossa does not disclose hip supports intermediate the lifting section and the rear section, Examiner clearly stated in the prior office action that Rossa does disclose hip supports located intermediate the lifting section. However, Rossa does not disclose a rear section, therefore the hip supports could not be intermediate the rear section on Rossa because Rossa does not have a rear section. However, Steinfort does disclose a rear section which has a lift/support for the pelvis. This lift/support for the pelvis would inherently be located after being provided to Rossa would be intermediate the hip supports because in the animals to be lifted, the pelvis is located intermediate the hips.

20. In response to applicant's argument that Rossa is a fixed structure which is incapable of being moved, Rossa clearly states in the title and in the abstract that it is an apparatus for lifting an animal.

21. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

22. In response to applicant's argument that Rossa does not disclose a trough shaped region comprising a U-section, Examiner argues that in Figure 6 it is clearly shown that the trough shaped region comprises a section that is U-shaped.
23. In response to applicant's argument that Rossa does not disclose a rod that is threaded on each end and adapted to engage with threaded nut members at each end, col.3 lines 45-57 discloses that the rod is threaded, therefore it would be inherent that opposed ends of the rod could be threaded. The claim calls for the rod to be adapted by screw into threaded sockets, If the rod is threaded, then it is adapted to screw into threaded sockets.

#### ***Conclusion***

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA L. WILLIAMS whose telephone number is (571)270-3113. The examiner can normally be reached on Mon to Fri 6:00-3:30, Alternate Friday off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael R Mansen/  
Supervisory Patent Examiner, Art  
Unit 3644

MW 07/15/2008